

Board of Mineral Mining Examiners Meeting

Summary Minutes

December 15, 2009

Charlottesville, VA

Members Present: Elisha Hall, David Johnson, Raymond Roeder, David Ryan, Mike Sheets, Conrad Spangler, and Virlo Stiltner

Members Not Present: Darrel Haymore and Andrew Price

DMME Employees Present: Jeff Stewart, David Spears, and Chrissi Wood-Smith

Others Present: Sam Hollins, VTCA, and Chris Kearnes, The Frazier Quarry, Inc.

The meeting was called to order at approximately 10:04 a.m. with an opening statement from Mr. Spangler and a brief introduction of the persons in attendance and an overview of the purpose and agenda of the meeting. The purpose of the meeting was for the Board (BMME) to review the Certification Requirements for Mineral Mining (4 VAC 25-35) and discuss and consider potential changes to these requirements.

Director's Report

Mr. Spangler updated the Board on activities of interest to the Board that have occurred since the Board's last meeting on December 18, 2008, at which the Board voted to publish a Notice of Periodic Review of the BMME's Certification Requirements for Mineral Mining. The notice was published in early 2009, no comments or recommendations were received during the comment period, and the periodic review was concluded with no action taken. As a result, the DMME recommended that the Board's certification rules remain in effect without change.

Mr. Spangler next informed the Board that the changes to the Safety and Health Regulations for Mineral Mining went into effect on July 8, 2009. The changes to the regulations, which were reviewed during the Board's December 18, 2008, meeting, included changes to address the safety hazards associated with flyrock and other potential adverse effects of blasting. Mr. Spangler handed out to each Board member a copy of the final regulation as it was published in the Virginia Register.

Mr. Spangler next reviewed certification program training statistics for MSHA fiscal years 2002 through 2009, which shows a decline in certifications issued since 2006, especially the number of General Mineral Miner certifications issued. Over the past year (2008 to 2009) the number of GMM certifications issued declined nearly 21 percent (from 1,359 to 1,086). Mr. Spangler attributed the decline in new workers entering the mining industry (reflected by the GMM certifications) to the overall economic conditions in our state and throughout the country. Mr. Spangler noted that although there has been a decline in certifications issued, the number of miners reached through DMM's general safety training programs has remained relatively steady, and providing these services remains a priority to DMME.

Mr. Spangler also informed the Board of actions DMM has taken over the past year to adjust to revenue pressures and forecasted declines in revenue including alternate work schedules for field staff, the office building piloting a 4-day work week, and state-wide restriction on printing of publications. Mr. Spangler concluded the director's report by asking for any questions or comments and none were received.

Comment Period

Mr. Sam Hollins and Mr. Chris Kearnes addressed the Board on behalf of the aggregate members of the Virginia Transportation Construction Alliance (VTCA). Mr. Hollins and Mr. Kearnes discussed three primary areas, outlined in a December 9, 2009, letter to the Board, that the VTCA would like the Board to consider (a copy of the letter was provided to the Board members at the beginning of the meeting), should the Board decide to take action to examine the Board's certification rules. The three primary areas include: 1) allowing GMM certifications to be processed electronically through e-Forms; 2) allowing certification fees to be paid online; and, 3) having e-Forms use by a specific user suspended or activated electronically (through e-Forms) by an operator.

Information Items

Mr. David Spears provided an overview of the regulatory process, briefly describing the Administrative Process Act, identifying the various types of regulatory actions, and noting that standard regulatory action would apply should the Board decide to take action on its certification rules. Mr. Spears described the standard regulatory action process and indicated that the entire process, from Notice of Intended Regulatory Action to adoption of the final regulations, takes 18 to 24 months.

Action Items

Mr. Spangler presented the next item of business for the Board: to review, discuss, and consider changes to BMME Certification Requirements for Mineral Miners (4 VAC 25-35). Mr. Spangler prompted the discussion by posing two questions to the Board: 1) would the Board want to proceed with a Notice of Intended Regulatory Action; and, if so, 2) should this action include other issues/concerns beyond those presented by the VTCA earlier in the meeting? The Board discussed the current certification rules, including the contact information that is required for certified persons, the certification renewal notification process, and GMM certification process and roster requirements. The Board also talked about security and fraud concerns with electronic filing, as well as potential advantages to an electronic certification system.

Following the discussion, the Board unanimously agreed to proceed with publishing the Notice of Intended Regulatory Action to examine the rules primarily in the area of general mineral miner certification, online certification payments, and security of the electronic system (e-Forms), as outlined in the VTCA's letter.

Other Items

Ms. Chrissi Wood-Smith presented an overview of the DMM e-Forms system and discussed its capabilities including electronic payment and system security.

The next Board meeting was not scheduled at this time. Mr. Spangler indicated that the next Board meeting will likely be scheduled after mid-year after the work on the regulatory action takes place.

There was no further business and the meeting was adjourned at approximately 12:29 p.m.